

REMARKS

I. Introduction

With the addition of new claim 110, claims 100 and 102 to 110 are pending in the present application. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

II. Rejection of Claims 100 to 104 and 106 to 109 Under 35 U.S.C. § 103(a)

Claims 100 to 104 and 106 to 109 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of U.S. Patent No. 5,609,285 ("Grant et al.") and U.S. Patent No. 5,855,312 ("Toledano"). It is respectfully submitted that the combination of Grant et al. and Toledano does not render unpatentable these claims for at least the following reasons.

As an initial matter, claim 101 was canceled in the Amendment filed on June 2, 2009. As such, this rejection is moot with respect to claim 101.

As a further initial matter, claims 100 and 109 have been amended herein without prejudice to correct a typographical error to change "circumferential" to --circumferential--. No new matter has been added.

Furthermore, and although Applicants do not necessarily agree with the merits of this rejection, but to facilitate prosecution, each of claims 100 and 109 have been amended for clarification herein without prejudice to recite that the housing has an inner surface and a rim that extends radially inwardly from the inner surface into a bore of the housing, that the anvil sleeve extends proximally from the anvil and that, when the anvil sleeve is disposed in the bore, the circumferential recess is configured to receive the rim to releasably axially secure the anvil sleeve in the bore and to axially lock the anvil in a predetermined position relative to the housing. Support for these amendments may be found, for example, at page 40, lines 3 to 5 and page 44, lines 7 to 12 of the Specification and in Figures 11(a) and 11(b).

Referring to Figures 15 and 16 of Grant et al., the Final Office Action at page 2 contends that element 114 is a staple housing defining a bore. The Final Office Action further contends that element 105 is an anvil sleeve having a recess 134 and a portion 168 that extends radially inwardly from the bore. However, element 134 is not disposed in any bore of element 114, element 104, and/or any

other element of Grant et al. that could be considered part of a staple housing. In this regard, Grant et al. does not disclose, or even suggest, an anvil sleeve that has a circumferential recess that is disposed in a bore defined in a housing for staples, as recited in claims 100 and 109. Toledano also does not disclose, or even suggest, this feature.

Further, the Final Office Action relies on the insertion of the knife 132 into the annular backup washer 134 as constituting a recess receiving a rim. However, it is readily apparent that no portion of the knife 132 projects radially inwardly into the backup washer, which serves as a tissue cutting surface against which the knife 132 cuts tissue. See, e.g., Grant et al. at col. 12, lines 12 to 14. Rather, the knife 132 extends axially into the washer 134, which is split into two annular sections. See, e.g., Grant et al. at col. 23, lines 42 to 45 and Figure 16. Moreover, there is no indication whatsoever in Grant et al. that this axial projection of the knife 132 into the washer 134 (and/or any structure surrounding the washer 134) would in any way axially secure the anvil assembly 100 in any bore of a housing or axially lock the anvil assembly 100 in a predetermined position relative to the housing. In this regard, it is plainly apparent that Grant et al. does not disclose, or even suggest, an anvil sleeve having a circumferential recess configured to receive a rim that projects radially inwardly from the housing into the circumferential recess to axially secure the anvil sleeve in the bore and to axially lock the anvil in a predetermined position relative to the housing, as recited in claims 100 and 109. Toledano also does not disclose, or even suggest, this feature.

As set forth above, the combination of Grant et al. and Toledano does not disclose, or even suggest, all of the features of either of claims 100 and 109. As such, it is respectfully submitted that the combination of Grant et al. and Toledano does not render unpatentable either of claims 100 and 109 or any of dependent claims 102 to 104 and 106 to 108. Accordingly, withdrawal of this rejection is respectfully requested.

III. Rejection of Claim 105 Under 35 U.S.C. § 103(a)

Claim 105 was rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Grant et al., Toledano, and U.S. Patent No. 6,491,201 (“Whitman”). It is respectfully submitted that the combination of Grant et al.,

Toledano, and Whitman does not render unpatentable claim 105 for at least the following reasons.

Claim 105 ultimately depends from claim 100 and therefore includes all of the features of claim 100. As set forth above, the combination of Grant et al. and Toledano does not disclose, or even suggest, all of the features of claim 100. Whitman is not relied upon for disclosing the features of claim 100 not disclosed by the combination of Grant et al. and Toledano. In this regard, it is respectfully submitted that claim 105 is patentable over the combination of Grant et al., Toledano, and Whitman for at least the same reasons set forth above in support of the patentability of claim 100.

In view of the foregoing, withdrawal of this rejection is respectfully requested.

IV. New Claim 110

New claim 110 has been added. It is respectfully submitted that new claim 110 adds no new matter and is fully supported by the present application, including the Specification. Support may be found, for example, at page 47, lines 3 to 16 of the Specification. It is respectfully submitted that claim 110 recites features that are not disclosed or suggested by the combination of references relied upon in the Final Office Action. As such, it is respectfully submitted that claim 110 is patentable these references.

V. Conclusion

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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